UNITED STATES DISTRICT COURT NORTHERN DISTRICT OF INDIANA HAMMOND DIVISION

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CRISTOBAL and THERESA ALVAREZ, et al.,

Civil Action No. 2:17-cv-00414-JVB-JPK

Plaintiffs,

Judge Joseph S. Van Bokkelen

v.

Magistrate Judge Joshua P. Kolar

ATLANTIC RICHFIELD COMPANY, et al.,

JURY TRIAL DEMANDED

Defendants.

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PLAINTIFFS' STATUS REPORT

Plaintiffs, through their *pro bono* counsel, respectfully submit this status report in advance of the status conference scheduled for April 15, 2021.

- 1. As an initial matter, Atlantic Richfield Company ("Atlantic Richfield") and the E. I. du Pont de Nemours and Company and The Chemours Company (collectively, "DuPont") both filed unsolicited, so-called "status reports." In fact, they were not status reports, but rather, advocacy pieces, urging the Court to grant their pending motions to dismiss. Plaintiffs believe those filings were inappropriate and will not respond in kind. Instead, the following is an accurate depiction of the status of this case.
- 2. Plaintiffs' Complaint in this case was filed on October 31, 2017. On January 22, 2018, Defendants Atlantic Richfield, DuPont, and U.S. Smelter and Lead Refinery, Inc. (collectively, "Defendants") filed motions to dismiss ("2018 Motions"). The 2018 Motions were fully briefed as of April 20, 2018.
- 3. Defendants' 2018 Motions went undecided for 19 months until the 2018 Motions were denied as moot on December 3, 2019, following the Court's December 2, 2019 order

to stay proceedings in this matter. The Court's stated basis for the stay was to wait on the outcome of an interlocutory appeal in another case involving the same Defendants, captioned *Baker*, *et al. v. Atlantic Richfield*, *et al.*, No. 2:17-cv-00429-JVB-JEM. That appeal was decided with no impact on the present case.

- 4. On July 31, 2020, after the Court lifted the stay, Defendants re-filed essentially the very same motions to dismiss making substantially the same arguments as their 2018 Motions (Dkt. Nos. 115, 118, and 121). These re-filed motions were fully briefed as of August 28, 2020. The Court has not ruled on the re-filed motions.
- 5. On February 23, 2021, Plaintiffs filed their Motion to Set a Federal Rule of Civil Procedure Rule 16 Conference ("Motion to Set a Rule 16 Conference"). The Motion to Set a Rule 16 Conference was fully briefed as of March 11, 2021 (Dkt. Nos. 132, 135-138).
- 6. On March 25, 2021, the parties appeared before Magistrate Judge Martin for the hearing on the Motion to Set a Rule 16 Conference; however, the parties did not address the merits of the Motion to Set a Rule 16 Conference. During the hearing, Magistrate Judge Martin asked the parties if they objected to having the same magistrate judge assigned to this case and the other four cases asserting claims related to the contamination of the U.S.S. Lead Superfund Site. The parties did not object, and Magistrate Judge Martin reassigned the case to Magistrate Judge Kolar and did not address the merits of the Motion to Set a Rule 16 Conference.
- 7. DuPont has engaged in merits discovery in *Rolan v. Atlantic Richfield Co.*, No. 1:16-CV-357-TLS, (Springmann, J.), which asserted claims related to the contamination of the U.S.S. Lead Superfund Site.

Dated: April 7, 2021 Respectfully submitted,

CRISTOBAL and THERESA ALVAREZ, CYTHERIA ARTIS, PAMELA BERRY, WILLIAM BOLEWARE, EARLIE BRADEN, ANNIE BROOKS, DEVIN L. and LINDA CRYMES, EZELL and ALICE FOSTER, WILLIAM GARCIA, CARMEN GARZA, HARRISON GIBBS, BERTERESA HARRIS, TERRANCE HILL, CURTIS and NETTIE HILL, SARA and MAURO JIMENEZ, EMMA JOHNSON, FRANK KRESICH, CHINITA LINDSAY, LORI LOCKLEAR, MARITZA LOPEZ, WILLIAM LUCKETT, ANGELA MCFERRIN, MARGO MORRIS, DONALD MOSLEY, RAYMOND MOSLEY, SANDRA MUNIZ-GARZA, MELISSA PETERSON, NATALIE ROBINSON, JOSE and NATALIA SANCHEZ, MADELEINE A.P. SPANN, JOHN and DELPHINE SULLIVAN, MICHEAL TRAMBLES and CHANTHINI FOWLER, BERNICE VICTOR, DWAYNE WASHINGTON, ISAAC WASHINGTON, JACQUELINE WASHINGTON-BROWN, SARAH WILLIS, and BETTY ZIC

By: /s/ David J. Chizewer

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Pro Bono Counsel for Plaintiffs

CERTIFICATE OF SERVICE

The undersigned, an attorney, certifies that on April 7, 2021, he caused a true and correct copy **PLAINTIFFS' STATUS REPORT** to be served via the Court's ECF/electronic mailing system and/or email upon all counsel of record.

/s/ David J.	Chizawar	
/s/ Davia J.	Cnizewer	